

AMENDED IN ASSEMBLY AUGUST 18, 2011

AMENDED IN ASSEMBLY MAY 23, 2011

AMENDED IN SENATE MARCH 31, 2011

**SENATE BILL**

**No. 339**

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**Introduced by Senator Wolk**  
**(Coauthor: Senator Evans)**  
(Coauthor: Assembly Member Chesbro)

February 15, 2011

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An act to amend Sections 23396 and 25608 of, and to add Section 23038.3 to, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 339, as amended, Wolk. Alcoholic beverage control: on-sale beer and wine licenses: bona fide public eating place: public schoolhouses.

(1) The Alcoholic Beverage Control Act authorizes the issuance of an on-sale beer and wine eating place license, which authorizes the sale of beer and wine for consumption on or off the licensed premises, provided the licensee maintains the licensed premises as a bona fide public eating place, as defined, and meets other specified requirements.

This bill would expand the definition of bona fide public eating place, for purposes of the on-sale beer and wine eating place license, to include a cooking school that provides courses and instructions in the preparation of food and maintains suitable kitchen facilities, as provided. The bill would make other related changes to a provision containing compliance requirements imposed upon bona fide eating places for which an on-sale license has been issued.

(2) Existing law generally prohibits the sale or consumption of alcoholic beverages at a public schoolhouse or any grounds thereof. Existing law provides that this prohibition does not apply if the alcoholic beverage is possessed, consumed, or used during an event at a community center owned by a community services district, as provided.

This bill would expand that exception to this prohibition to include events held at a community center owned by a city.

(3) *This bill would incorporate additional changes in Section 25608 of the Business and Professions Code, proposed by AB 319, to be operative only if AB 319 and this bill are both chaptered and become effective January 1, 2012, and this bill is chaptered last.*

(3)

(4) The Alcoholic Beverage Control Act provides that a violation of specified provisions of the act is punishable as a misdemeanor. This bill would expand an existing crime by imposing requirements on additional licensees under the act; thus, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23038.3 is added to the Business and  
2 Professions Code, to read:  
3 23038.3. Notwithstanding Section 23038, for purposes of  
4 issuing an on-sale beer and wine license only, “bona fide public  
5 eating place” also means a cooking school that regularly and in a  
6 bona fide manner provides courses of instruction in the preparation  
7 of food, and that maintains suitable kitchen facilities for the  
8 preparation of food that is offered to persons attending the courses  
9 of instruction.  
10 SEC. 2. Section 23396 of the Business and Professions Code  
11 is amended to read:  
12 23396. Any on-sale license authorizes the sale of the alcoholic  
13 beverage specified in the license for consumption on the premises

1 where sold. No alcoholic beverages, other than beers, may be sold  
2 or served in any bona fide public eating place for which an on-sale  
3 license has been issued unless the premises comply with the  
4 requirements prescribed in Section 23038, 23038.1, 23038.2, or  
5 23038.3.

6 SEC. 3. Section 25608 of the Business and Professions Code  
7 is amended to read:

8 25608. (a) Every person who possesses, consumes, sells, gives,  
9 or delivers to any other person, any alcoholic beverage in or on  
10 any public schoolhouse or any of the grounds of the schoolhouse,  
11 is guilty of a misdemeanor. This section does not, however, make  
12 it unlawful for any person to acquire, possess, or use any alcoholic  
13 beverage in or on any public schoolhouse, or on any grounds of  
14 the schoolhouse, if any of the following applies:

15 (1) The alcoholic beverage possessed, consumed, or sold,  
16 pursuant to a license obtained under this division, is wine that is  
17 produced by a bonded winery owned or operated as part of an  
18 instructional program in viticulture and enology.

19 (2) The alcoholic beverage is acquired, possessed, or used in  
20 connection with a course of instruction given at the school and the  
21 person has been authorized to acquire, possess, or use it by the  
22 governing body or other administrative head of the school.

23 (3) The public schoolhouse is surplus school property and the  
24 grounds of the schoolhouse are leased to a lessee that is a general  
25 law city with a population of less than 50,000, or the public  
26 schoolhouse is surplus school property and the grounds of the  
27 schoolhouse are located in an unincorporated area and are leased  
28 to a lessee that is a civic organization, and the property is to be  
29 used for community center purposes and no public school education  
30 is to be conducted on the property by either the lessor or the lessee  
31 and the property is not being used by persons under the age of 21  
32 years for recreational purposes at any time during which alcoholic  
33 beverages are being sold or consumed on the premises.

34 (4) The alcoholic beverages are acquired, possessed, or used  
35 during events at a college-owned or college-operated veterans  
36 stadium with a capacity of over 12,000 people, located in a county  
37 with a population of over 6,000,000 people. As used in this  
38 paragraph, "events" mean football games sponsored by a college,  
39 other than a public community college, or other events sponsored  
40 by noncollege groups.

1 (5) The alcoholic beverages are acquired, possessed, or used  
2 during an event not sponsored by any college at a performing arts  
3 facility built on property owned by a community college district  
4 and leased to a nonprofit organization that is a public benefit  
5 corporation formed under Part 2 (commencing with Section 5110)  
6 of Division 2 of Title 1 of the Corporations Code. As used in this  
7 paragraph, “performing arts facility” means an auditorium with  
8 more than 300 permanent seats.

9 (6) The alcoholic beverage is wine for sacramental or other  
10 religious purposes and is used only during authorized religious  
11 services held on or before January 1, 1995.

12 (7) The alcoholic beverages are acquired, possessed, or used  
13 during an event at a community center owned by a community  
14 services district or a city and the event is not held at a time when  
15 students are attending a public school-sponsored activity at the  
16 center.

17 (8) The alcoholic beverage is wine that is acquired, possessed,  
18 or used during an event sponsored by a community college district  
19 or an organization operated for the benefit of the community  
20 college district where the college district maintains both an  
21 instructional program in viticulture on no less than five acres of  
22 land owned by the district and an instructional program in enology,  
23 which includes sales and marketing.

24 (9) The alcoholic beverage is acquired, possessed, or used at a  
25 professional minor league baseball game conducted at the stadium  
26 of a community college located in a county with a population of  
27 less than 250,000 inhabitants, and the baseball game is conducted  
28 pursuant to a contract between the community college district and  
29 a professional sports organization.

30 (10) The alcoholic beverages are acquired, possessed, or used  
31 during events at a college-owned or college-operated stadium or  
32 other facility. As used in this paragraph, “events” means fundraisers  
33 held to benefit a nonprofit corporation that has obtained a license  
34 pursuant to this division for the event. “Events” does not include  
35 football games or other athletic contests sponsored by any college  
36 or public community college. This paragraph shall not apply to  
37 any public education facility in which any grade from kindergarten  
38 to grade 12, inclusive, is schooled.

39 (11) The alcoholic beverages are possessed, consumed, or sold,  
40 pursuant to a license, permit, or authorization obtained under this

1 division, for an event held at an overnight retreat facility owned  
2 and operated by a county office of education or a school district  
3 at times when pupils are not on the grounds.

4 (12) The grounds of the public schoolhouse on which the  
5 alcoholic beverage is acquired, possessed, used, or consumed is  
6 property that has been developed and is used for residential  
7 facilities or housing that is offered for rent, lease, or sale  
8 exclusively to faculty or staff of a public school or community  
9 college.

10 (13) The grounds of a public schoolhouse on which the alcoholic  
11 beverage is acquired, possessed, used, or consumed is property of  
12 a community college that is leased, licensed, or otherwise provided  
13 for use as a water conservation demonstration garden and  
14 community passive recreation resource by a joint powers agency  
15 comprised of public agencies, including the community college,  
16 and the event at which the alcoholic beverage is acquired,  
17 possessed, used, or consumed is conducted pursuant to a written  
18 policy adopted by the governing body of the joint powers agency  
19 and no public funds are used for the purchase or provision of the  
20 alcoholic beverage.

21 (14) The alcoholic beverage is beer or wine acquired, possessed,  
22 used, sold, or consumed only in connection with a course of  
23 instruction, sponsored dinner, or meal demonstration given as part  
24 of a culinary arts program at a campus of a California community  
25 college and the person has been authorized to acquire, possess,  
26 use, sell, or consume the beer or wine by the governing body or  
27 other administrative head of the school.

28 (15) The alcoholic beverages are possessed, consumed, or sold,  
29 pursuant to a license or permit obtained under this division for  
30 special events held at the facilities of a public community college,  
31 located in a county of the first class, a county of the fourth class,  
32 or a county of the tenth class, during the special event. As used in  
33 this paragraph, "special event" means festivals, shows, private  
34 parties, concerts, theatrical productions, and other events held on  
35 the premises of the public community college, pursuant to a license  
36 or permit, and for which the principal attendees are members of  
37 the general public or invited guests and not students of the public  
38 community college.

39 (16) The alcoholic beverages are acquired, possessed, or used  
40 during an event at a community college-owned facility in which

1 any grade from kindergarten to grade 12, inclusive, is schooled,  
2 if the event is held at a time when students in any grades from  
3 kindergarten to grade 12, inclusive, are not present at the facility.  
4 As used in this paragraph, “events” include fundraisers held to  
5 benefit a nonprofit corporation that has obtained a license pursuant  
6 to this division for the event.

7 (b) Any person convicted of a violation of this section shall, in  
8 addition to the penalty imposed for the misdemeanor, be barred  
9 from having or receiving any privilege of the use of public school  
10 property which is accorded by Article 2 (commencing with Section  
11 82537) of Chapter 8 of Part 49 of Division 7 of Title 3 the  
12 Education Code.

13 *SEC. 3.5. Section 25608 of the Business and Professions Code*  
14 *is amended to read:*

15 25608. (a) Every person who possesses, consumes, sells, gives,  
16 or delivers to any other person, any alcoholic beverage in or on  
17 any public schoolhouse or any of the grounds of the schoolhouse,  
18 is guilty of a misdemeanor. This section does not, however, make  
19 it unlawful for any person to acquire, possess, or use any alcoholic  
20 beverage in or on any public schoolhouse, or on any grounds of  
21 the schoolhouse, if any of the following applies:

22 (1) The alcoholic beverage possessed, consumed, or sold,  
23 pursuant to a license obtained under this division, is wine that is  
24 produced by a bonded winery owned or operated as part of an  
25 instructional program in viticulture and enology.

26 (2) The alcoholic beverage is acquired, possessed, or used in  
27 connection with a course of instruction given at the school and the  
28 person has been authorized to acquire, possess, or use it by the  
29 governing body or other administrative head of the school.

30 (3) The public schoolhouse is surplus school property and the  
31 grounds of the schoolhouse are leased to a lessee that is a general  
32 law city with a population of less than 50,000, or the public  
33 schoolhouse is surplus school property and the grounds of the  
34 schoolhouse are located in an unincorporated area and are leased  
35 to a lessee that is a civic organization, and the property is to be  
36 used for community center purposes and no public school education  
37 is to be conducted on the property by either the lessor or the lessee  
38 and the property is not being used by persons under the age of 21  
39 years for recreational purposes at any time during which alcoholic  
40 beverages are being sold or consumed on the premises.

1 (4) The alcoholic beverages are acquired, possessed, or used  
2 during events at a college-owned or college-operated veterans  
3 stadium with a capacity of over 12,000 people, located in a county  
4 with a population of over 6,000,000 people. As used in this  
5 paragraph, “events” mean football games sponsored by a college,  
6 other than a public community college, or other events sponsored  
7 by noncollege groups.

8 (5) The alcoholic beverages are acquired, possessed, or used  
9 during an event not sponsored by any college at a performing arts  
10 facility built on property owned by a community college district  
11 and leased to a nonprofit organization that is a public benefit  
12 corporation formed under Part 2 (commencing with Section 5110)  
13 of Division 2 of Title 1 of the Corporations Code. As used in this  
14 paragraph, “performing arts facility” means an auditorium with  
15 more than 300 permanent seats.

16 (6) The alcoholic beverage is wine for sacramental or other  
17 religious purposes and is used only during authorized religious  
18 services held on or before January 1, 1995.

19 (7) The alcoholic beverages are acquired, possessed, or used  
20 during an event at a community center owned by a community  
21 services district *or a city* and the event is not held at a time when  
22 students are attending a public school-sponsored activity at the  
23 center.

24 (8) The alcoholic beverage is wine that is acquired, possessed,  
25 or used during an event sponsored by a community college district  
26 or an organization operated for the benefit of the community  
27 college district where the college district maintains both an  
28 instructional program in viticulture on no less than five acres of  
29 land owned by the district and an instructional program in enology,  
30 which includes sales and marketing.

31 (9) The alcoholic beverage is acquired, possessed, or used at a  
32 professional minor league baseball game conducted at the stadium  
33 of a community college located in a county with a population of  
34 less than 250,000 inhabitants, and the baseball game is conducted  
35 pursuant to a contract between the community college district and  
36 a professional sports organization.

37 (10) The alcoholic beverages are acquired, possessed, or used  
38 during events at a college-owned or college-operated stadium or  
39 other facility. As used in this paragraph, “events” means fundraisers  
40 held to benefit a nonprofit corporation that has obtained a license

1 pursuant to this division for the event. “Events” does not include  
2 football games or other athletic contests sponsored by any college  
3 or public community college. This paragraph shall not apply to  
4 any public education facility in which any grade from kindergarten  
5 to grade 12, inclusive, is schooled.

6 (11) The alcoholic beverages are possessed, consumed, or sold,  
7 pursuant to a license, permit, or authorization obtained under this  
8 division, for an event held at an overnight retreat facility owned  
9 and operated by a county office of education or a school district  
10 at times when pupils are not on the grounds.

11 (12) The grounds of the public schoolhouse on which the  
12 alcoholic beverage is acquired, possessed, used, or consumed is  
13 property that has been developed and is used for residential  
14 facilities or housing that is offered for rent, lease, or sale  
15 exclusively to faculty or staff of a public school or community  
16 college.

17 (13) The grounds of a public schoolhouse on which the alcoholic  
18 beverage is acquired, possessed, used, or consumed is property of  
19 a community college that is leased, licensed, or otherwise provided  
20 for use as a water conservation demonstration garden and  
21 community passive recreation resource by a joint powers agency  
22 comprised of public agencies, including the community college,  
23 and the event at which the alcoholic beverage is acquired,  
24 possessed, used, or consumed is conducted pursuant to a written  
25 policy adopted by the governing body of the joint powers agency  
26 and no public funds are used for the purchase or provision of the  
27 alcoholic beverage.

28 (14) The alcoholic beverage is beer or wine acquired, possessed,  
29 used, sold, or consumed only in connection with a course of  
30 instruction, sponsored dinner, or meal demonstration given as part  
31 of a culinary arts program at a campus of a California community  
32 college and the person has been authorized to acquire, possess,  
33 use, sell, or consume the beer or wine by the governing body or  
34 other administrative head of the school.

35 (15) The alcoholic beverages are possessed, consumed, or sold,  
36 pursuant to a license or permit obtained under this division for  
37 special events held at the facilities of a public community college,  
38 ~~located in a county of the first class, a county of the fourth class,~~  
39 ~~or a county of the tenth class;~~ college during the special event. As  
40 used in this paragraph, “special event” means *events that are held*



1 *with the permission of the governing board of the community*  
 2 *college district that are festivals, shows, private parties, concerts,*  
 3 *theatrical productions, and other events held on the premises of*  
 4 *the public community college, pursuant to a license or permit,*  
 5 *college and for which the principal attendees are members of the*  
 6 *general public or invited guests and not students of the public*  
 7 *community college.*

8 (16) The alcoholic beverages are acquired, possessed, or used  
 9 during an event at a community college-owned facility in which  
 10 any grade from kindergarten to grade 12, inclusive, is schooled,  
 11 if the event is held at a time when students in any grades from  
 12 kindergarten to grade 12, inclusive, are not present at the facility.  
 13 As used in this paragraph, “events” include fundraisers held to  
 14 benefit a nonprofit corporation that has obtained a license pursuant  
 15 to this division for the event.

16 (b) Any person convicted of a violation of this section shall, in  
 17 addition to the penalty imposed for the misdemeanor, be barred  
 18 from having or receiving any privilege of the use of public school  
 19 property which is accorded by Article 2 (commencing with Section  
 20 82537) of Chapter 8 of Part 49 of Division 7 of Title 3 the  
 21 Education Code.

22 *SEC. 4. Section 3.5 of this bill incorporates amendments to*  
 23 *Section 25608 of the Business and Professions Code proposed by*  
 24 *both this bill and Assembly Bill 319. It shall only become operative*  
 25 *if (1) both bills are enacted and become effective on or before*  
 26 *January 1, 2012, (2) each bill amends Section 25608 of the*  
 27 *Business and Professions Code, and (3) this bill is enacted after*  
 28 *Assembly Bill 319, in which case Section 3 of this bill shall not*  
 29 *become operative.*

30 ~~SEC. 4.~~

31 *SEC. 5. No reimbursement is required by this act pursuant to*  
 32 *Section 6 of Article XIII B of the California Constitution because*  
 33 *the only costs that may be incurred by a local agency or school*  
 34 *district will be incurred because this act creates a new crime or*  
 35 *infraction, eliminates a crime or infraction, or changes the penalty*  
 36 *for a crime or infraction, within the meaning of Section 17556 of*  
 37 *the Government Code, or changes the definition of a crime within*

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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